



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
33 WEST STATE STREET

P. O. BOX 039
TRENTON, NEW JERSEY 08625-0039

<https://www.njstart.gov>
Telephone (609) 292-4886 / Facsimile (609) 984-2575

ELIZABETH MAHER MUOIO
State Treasurer

MAURICE A. GRIFFIN
Acting Director

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

November 2, 2018

Via Electronic Mail [mdbaugh@lakeland.com] and USPS Regular Mail

Diane Baugh, Sales Support Coordinator
Lakeland Industries, Inc.
202 Pride Lane SW
Decatur, AL 35603

Re: I/M/O Bid Solicitation # 17DPP00046 Lakeland Industries, Inc.
Protest of Notice of Intent to Award
T0106 Law Enforcement Firearms, Equipment and Supplies

Dear Ms. Baugh:

This letter is in response to your email of October 19, 2018, on behalf of Lakeland Industries, Inc. (Lakeland) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that correspondence, Lakeland protests the October 19, 2018, Notice of Intent to Award (NOI) issued by the Division's Procurement Bureau (Bureau) for Bid Solicitation #17DPP00046: Law Enforcement Firearms, Equipment and Supplies (Bid Solicitation).¹

By way of background, on February 7, 2017, the Bureau issued the Bid Solicitation on behalf of State Using Agencies and Cooperative Purchasing Partners to solicit Quotes for sixteen categories for law enforcement equipment and supplies. Bid Solicitation § 1.1 *Purpose and Intent* and Bid Solicitation § 3.1 *Law Enforcement Equipment and Supplies Categories*.

¹ This final agency decision uses terminology employed by the State of New Jersey's **NJSTART** eProcurement system. For ease of reference, the following is a table which references the **NJSTART** term and the statutory, regulatory and/or legacy term.

NJSTART Term	Statutory, Regulatory and/or Legacy Term
Bid Solicitation	Request For Proposal
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor {Bidder}	Bidder
Vendor {Contractor}	Contractor

On April 20, 2017, the Proposal Review Unit opened 101 Quotes received by the submission deadline of 2:00 p.m. A list of all Quotes received by the submission deadline is attached hereto as Exhibit A. After conducting a preliminary review of the Quotes received, those Quotes which conformed to the administrative requirements for Quote submission were forwarded to the Bureau for review and evaluation consistent with the requirements of Bid Solicitation Section 6.6 *Evaluation Criteria*.

On September 13, 2018, the Bureau completed a Recommendation Report which recommended Blanket P.O. awards to those responsible Vendors {Bidders} whose Quotes, conforming to the Bid Solicitation were most advantageous to the State, price and other factors considered. On October 19, 2018, the NOI was issued advising all Vendors {Bidders} that it was the State's intent to award Blanket P.O.s.

On October 23, 2018, Lakeland submitted an email to the Division's Hearing Unit stating in part:

We would like to protest the exclusion of Lakeland Industries from this award. To my knowledge, Lakeland has completed all documentation and essential forms are on file in the NJSTART system.

Please add Lakeland to this list and resend...

In consideration of Lakeland's protest, I have reviewed the record of this procurement, including the Bid Solicitation, the Quotes received, the relevant statutes, regulations, and case law. This review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed Final Agency Decision on the merits of the protest. I set forth herein the Division's Final Agency Decision.

The Division's public procurement program reflects the New Jersey statutory and regulatory requirements that have been affirmed by New Jersey courts. A basic precept of the Division's governing statutes and regulations requires that Quotes must be submitted by the deadline specified in the public advertisement and website notice. N.J.A.C. 17:12-2.1 Advertising. The record of this procurement shows that the procurement was conducted in full accordance with the Division's governing statutes and regulations and by its standard announcement procedures and practices. Notice of the subject Bid Solicitation was publicly advertised on the Division's *NJSTART* eProcurement site, and was also published in The Star-Ledger on February 8, 2017, as required by the applicable regulation. N.J.A.C. 17:12-2.1(a) & (c).

With respect to the submission of Quotes, the Division's governing regulations provide in relevant part that "[i]n order to be eligible for consideration for award of [Blanket P.O.], the bidder's [Quote] shall ... [b]e submitted on or before the due date and time and at the place specified in the [Bid Solicitation]." N.J.A.C. 17:12-2.2(a), emphasis added. The Bid Solicitation specifically advised all Vendors {Bidders} of the Quote submission requirements stating:

1.3.2 SUBMISSION OF QUOTES {PROPOSALS}

In order to be considered for award, the Quote {Proposal} must be received by the Procurement Bureau of the Division at the appropriate location by the required time. Vendors {Bidders} shall submit a Quote {Proposal} either electronically through NJSTART or via hard copy.

Hard copy Quote {Proposal} must be submitted to the physical location noted below:

PROPOSAL RECEIVING ROOM – 9TH FLOOR
DIVISION OF PURCHASE AND PROPERTY
DEPARTMENT OF THE TREASURY
33 WEST STATE STREET, P.O. BOX 230
TRENTON, NJ 08625-0230

Directions to the Division are available on the web at <http://www.state.nj.us/treasury/purchase/directions.shtml>.

QUOTES {PROPOSALS} NOT RECEIVED PRIOR TO THE QUOTE {PROPOSAL} OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE {PROPOSAL} OPENING ARE INDICATED ON THE BID SOLICITATION {RFP} COVER SHEET AND IN THE “SUMMARY” TAB OF THE BID SOLICITATION WEBPAGE WITHIN NJSTART.

Note: A Vendor {Bidder} using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Proposal Receiving Room. A Vendor {Bidder} should make every effort to submit its Quote {Proposal} well ahead of the Quote {Proposal} submission deadline to mitigate unforeseen delays or issues. The Vendor {Bidder} is solely responsible for the timely submission of its Quote {Proposal} in response to this Bid Solicitation {RFP}.

Procedural inquiries concerning this Bid Solicitation {RFP} may be directed to njstart@treas.nj.gov and/or (609) 341-3500.

The State will not respond to substantive questions related to the Bid Solicitation {RFP} or any other Blanket P.O. {Contract} via this e-mail address or phone number. For inquiries related to substantive questions refer to Section 1.3.1 (Electronic Question and Answer Period).

Further, the Bid Solicitation advised the Vendors {Bidders} to review the Division’s Quick Reference Guides (QRG) for assistance on how to submit a Quote.

4.3.1 NJSTART SUBMISSION OF QUOTE {PROPOSAL}

Vendors {Bidders} may refer to the Quick Reference Guides (QRGs) “Vendor Registration” and “Submit a Quote” for additional instructions detailing how to enroll in NJSTART and submit a NJSTART electronic Quote {Proposal}. QRGs are located on the NJSTART Vendor Support Page. If the Vendor {Bidder} submits both a NJSTART and a hard copy of the Vendor’s {Bidder’s} Quote {Proposal}, the NJSTART Quote {Proposal} will prevail in the event of a discrepancy between the electronic and paper versions.

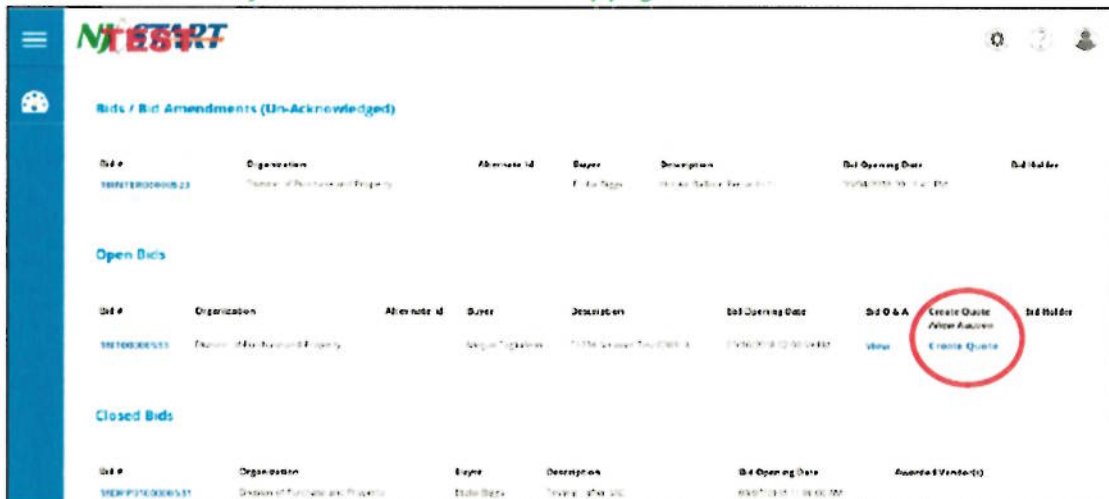
The Submit a Quote QRG provides Vendors {Bidders} with step by step instructions and screenshots on how to locate a Bid Solicitation and how to submit a Quote in response to that Bid Solicitation. See, QRG entitled “Submit a Quote,” pgs. 10-20; <https://www.state.nj.us/treasury/purchase/njstart/pdf/QRG-Seller->

[Create-a-Quote-in-NJSTART.pdf](#). By way of example, the QRG includes the following instructions and screenshots on how to properly submit a Quote:

3.5 Submit a Quote

3.5.1. The General Tab

- Click the **Create Quote** link to the far right of the Bid Solicitation Number for which you wish to create a Quote (shown in red below). *NOTE: You can also click on the **Create Quote** button at the bottom of the Bid Solicitation Summary page.*



- The New Quote General Tab opens, as shown below:



and

3.5.5. Attaching a File to Your Quote

- Click on the Add File button and the following screen appears.

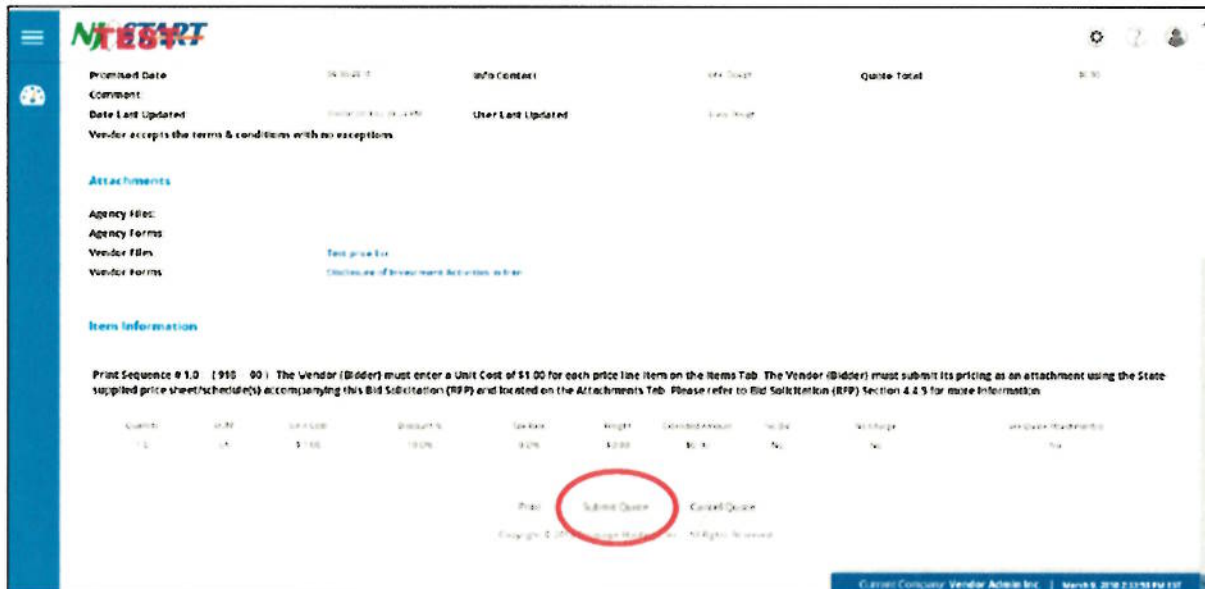
The screenshot shows the 'Add File' screen in the NISTART system. The interface includes a header with the NISTART logo and navigation icons. The main content area has a title 'Add File' and two bullet points explaining the 'Name' and 'Confidential' fields. Below the text are input fields for 'Name*', 'Description', and 'File*' with a 'Browse...' button. There is also a 'Confidential' checkbox. At the bottom, there are four buttons: 'Save & Exit', 'Save & Continue', 'Open', and 'Cancel & Exit'.

- **“Name”** is the display name for the file that will appear when it is attached. It can be different from its file location name and can contain alphanumeric characters and spaces up to a maximum length of 200 characters, but cannot contain special characters (<, >, &, ', ?, #, [,], or %).
- The **“Description”** field can be used to describe the nature of the attachment or content.
- The **“Confidential”** button should be left unchecked to enable purchasers to review the attachments. Marking an attachment as **“Confidential”** in **NISTART** shall not constitute the Vendor’s {Bidder’s} designation of the attachment as exempt from public disclosure under the Open Public Records Act (OPRA) and/or the common law as outlined in Bid Solicitation Section 1.4.4.
- In the location entitled **“File*:**” click the **Browse** button to find and select the desired file, then click **Open**.

and

3.5.8. Submit Your Quote

- When all of your reviews and edits are complete, click on the **Submit Quote** button, shown below:




- After you click the **Submit Quote** button once, the following pop-up window will be displayed asking you to confirm whether or not you want to submit the Quote.
- Click **OK** to submit the Quote.

Additionally, the QRG provides instructions on how to confirm that a Quote has been submitted:

3.5.9. Verify that Your Quote Has Been Submitted

- Once you click on a submitted Quote, the Summary tab shows the Status as "Submitted" for the Quote (circled in red below).



The screenshot displays the NJSTART Vendor Admin interface for a quote with ID 0000501. The quote is for Vendor Admin, Inc. The status is 'Submitted', which is circled in red. The interface includes a navigation menu on the left, a breadcrumb trail at the top, and a main content area with various tabs and data fields. The 'Submitted' status is clearly visible in the center of the page.

- Only when your Quote status indicates **Submitted** can you be confident that you have successfully submitted your Quote for consideration by the State.

In connection with a review of Lakeland's protest, the Division's Hearing Unit reviewed the record of the **NJSTART** and hard copy Quotes submitted and confirmed that Lakeland did not submit a Quote through the **NJSTART** eProcurement system, nor did Lakeland submit a hard copy Quote to the Division. See, Exhibit A.

Additionally, in reviewing the record of this procurement Hearing Unit also reviewed Lakeland's Vendor Profile. As shown in the screenshot below, it appears that Lakeland uploaded the documents which it intended to submit as a Quote to its Vendor Profile.

Vendor Profile - Lakeland industries

Organization Information Users Address Commodity Codes and Services Regions Terms & Categories **Attachments** Vendor Performance

Attachments Information

Profile Attachments

Download	File	Description	Size	Uploaded By	Uploaded Date
	Lakeland Disclosure of Investment Activities in Iran.pdf	Lakeland Disclosure of Investment Activities in Iran	31,229 bytes	Diane Baugh	04/05/2017 12:40:00 PM
	Lakeland Certificate of Employee Information.pdf	Lakeland Certificate of Employee Information	198,041 bytes	Diane Baugh	04/05/2017 12:41:41 PM
	Lakeland Subcontractor Utilization Plan.pdf	Lakeland Subcontractor Utilization Plan	24,229 bytes	Diane Baugh	04/05/2017 12:56:55 PM
	Lakeland Cooperative Purchasing Form.pdf	Lakeland Cooperative Purchasing Form	24,311 bytes	Diane Baugh	04/05/2017 01:02:28 PM
	Lakeland Bidder's Data Sheet.pdf	Lakeland Bidder's Data Sheet	80,118 bytes	Diane Baugh	04/05/2017 01:05:15 PM
	Lakeland Disclosure of Political Contributions.pdf	Lakeland Disclosure of Political Contributions	206,778 bytes	Diane Baugh	04/05/2017 02:53:11 PM
	Lakeland Disclosure of Investigations and Other Actions.pdf	Lakeland Disclosure of Investigations and Other Actions	46,108 bytes	Diane Baugh	04/05/2017 02:59:01 PM
	Lakeland Offer and Acceptance.pdf	Lakeland Offer and Acceptance	188,849 bytes	Diane Baugh	04/05/2017 03:11:50 PM
	Price Sheet T0106 17DPP00046 02_06_17_2.xlsx	Price Sheet T0106 17DPP00046 02_06_17_2	159,601 bytes	Diane Baugh	04/05/2017 03:49:10 PM
	17DPP00100 T0790 Price Sheet - LAKELAND.xlsx	PRICE SHEET T0790	158,438 bytes	John Therrien	08/07/2017 11:24:39 AM
	T0790 17DPP00100 Offer and Acceptance - LAKELAND.pdf	Lakeland Offer and Acceptance	282,674 bytes	John Therrien	08/07/2017 11:29:22 AM
	T0790 Bidder Data Form.pdf	Lakeland Bidder Data Form	60,147 bytes	John Therrien	08/07/2017 11:30:52 AM
	T0790 Cooperative Purchasing Form-signed.pdf	Lakeland Cooperative Purchasing Form	92,467 bytes	John Therrien	08/07/2017 11:31:55 AM
	T0790 Dealers and Distributors Plan.pdf	Lakeland Dealer and Distributors Plan	65,315 bytes	John Therrien	08/07/2017 11:32:51 AM
	T0790 Disclosure of Investments in Iran Form-signed.pdf	Lakeland Disclosure on Investments in Iran	304,730 bytes	John Therrien	08/07/2017 11:33:25 AM
	T0790 Ownership Disclosure Form-signed.pdf	Lakeland Ownership and Disclosure Plan	467,322 bytes	John Therrien	08/07/2017 11:33:58 AM
	T0790 Subcontractor Utilization Plans-signed.pdf	Lakeland Subcontractor Utilization Plan	215,928 bytes	John Therrien	08/07/2017 11:35:23 AM
	LAKELAND 2017 FIRE PRICE LIST.xlsx	Lakeland 2017 FIRE Price List	134,508 bytes	John Therrien	08/07/2017 12:47:23 PM
	NJ AA Supplement.pdf	NJ AA Supplement 17DPP00100	410,331 bytes	John Therrien	08/22/2017 10:38:35 AM
	NJ Disclosure of Investigations-signed.pdf	NJ Disclosure of Investigations - signed 17DPP0100	478,206 bytes	John Therrien	08/22/2017 10:39:25 AM

Forms

Name	Description	Attached By	Attached Date
Disclosure of Investigations	Disclosure of Investigations and Other Actions Involving Bidder - Full Version	Diane Baugh	04/05/2017
Disclosure of Investigations and Other Actions Involving Bidder	Disclosure of Investigations and Other Actions Involving Bidder - Use with Completed NJSTART Category ONLY	Diane Baugh	04/05/2017

Unfortunately, the inclusion of documents on the Vendor Profile page does create or constitute a properly submitted Quote. When a Quote is properly created and submitted through the **NJSTART** eProcurement system, following the instructions set forth in the QRG entitled "Submit a Quote," the Division automatically receives the Quote after the opening date and time.² In contrast, when a Vendor makes a change to, or attaches documents to its Vendor Profile, the Division does not receive any notice of this action as Vendors {Bidders} are free to make changes and additions to the Vendor Profile for any reason at any time. There are over 31,000 Vendors registered in the **NJSTART** eProcurement system. The Division does not review Vendor Profile pages each time a Quote submission date has passed, as the Division would not know which Vendors {Bidders} chose to bid on which Bid Solicitation.

The responsibility for ensuring that all necessary forms and other submittals are properly uploaded into **NJSTART** necessarily and appropriately rests solely with the Vendor {Bidder}. Bid Solicitation § 1.4.2 *Vendor {Bidder} Responsibility*. The Division's governing regulations mandate stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's

² Once the Quote submission deadline has passed, a properly submitted Quote cannot be withdrawn or altered by the Vendor {Bidder}. However, documents uploaded to the Vendor Profile can be amended, altered, deleted or changed at any time.

bidding process. Permitting Lakeland or any other Vendor {Bidder}, to submit the required information after the Quote opening deadline has passed, would place that Vendor {Bidder} in a position of advantage over other Vendors {Bidders} who timely submitted the required information with the Quote.

This is an unfortunate situation for the State as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting the Quote. However, in light of the findings set forth above, I sustain the Bureau's October 19, 2018 Notice of Intent to Award. This is my final agency decision with respect to the protest submitted by Lakeland.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your company with **NJSTART** at www.njstart.gov, the State of New Jersey's eProcurement system. I encourage you to log into **NJSTART** to select any and all commodity codes for procurements you may be interested in submitting a Quote for so that you may receive notification of future bidding opportunities. Also, for future Bid Solicitations I encourage you to review the Division's **NJSTART** Vendor Support Page and review the Division's Quick Reference Guides which will provide you with information on how to submit a Quote and how to review a submitted Quote to ensure that all necessary documents have been uploaded as part of the submitted Quote.

Sincerely,



Maurice A. Griffin
Acting Director

MAG: RUD

c: J. Kerchner
K. Thomas